IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3710 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JUNAGADH MUNICIPALITY

Versus

ISMAIL AAMAD

Appearance:

1. Special Civil Application No. 3710 of 1994

MR PREMAL R JOSHI for Petitioner No. 1

NOTICE SERVED for Petitioner No. 1

RULE SERVED for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA

Date of decision: 04/08/2004

ORAL JUDGEMENT

#. Petitioner-Junagadh Municipality has challenged in

this petition the impugned judgment and award dated 10.11.1993 passed by Labour Court, Junagadh in New Recovery Application No.153/90 (Old Recovery Application No.2085/84) whereby the petitioner-Municipality was directed to pay difference of Rs.12,745/= to the respondent-workman within one month from the date of the receipt of the order with costs of Rs.300/= to be paid to the respondent-workman.

#. This petition was straightaway admitted on 17.3.1994 by this court (Coram : S.M.Soni, J.)[as he then was] and ordered to be heard with Special Civil Application No.582/94 and ad-interim relief in terms of para 9(B) was granted. However, it appears that though the respondent-workman was duly served with the notice of rule and interim relief, for the reasons best known to him he has not preferred to remain present through his counsel in this matter. This is an old matter of 1994, which is listed for the 8th time, as per the endorsement shown on the Board. At least on previous three occasions, this court itself had adjourned the matter, but no one was present for the respondents, therefore, today this matter is being decided after hearing learned counsel Mr.Premal Joshi for the petitioner.

#. Learned counsel Mr.Joshi for the petitioner-Municipality vehemently submitted that the Labour Court ought not to have straightaway entertained the recovery application filed by the respondent-workman under Section 33C(2) of the Industrial Disputes Act, 1947. In support of his submission, he has placed reliance on the following judgments of this court :-

(i) 1988(2) GLH 422
(ii) 1979 GLR 290
(iii) 2000(3) GLH 261

When the matter is covered by the aforesaid judgments in favour of the petitioner-Municipality, then it has to be allowed and accordingly this petition is allowed and impugned judgement and award dated 10.11.1993 passed by the Labour Court at Annexure-A is hereby quashed and set aside. Interim relief granted earlier stands vacated forthwith. Rule is made absolute with no order as to costs.

(B.J.Shethna, J.)

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